

1. This Agreement is entered into between the State Agency and the Contractor named below:

STATE AGENCY'S NAME

California Department of Health Services

CONTRACTOR'S NAME

San Bernardino County

2. The term of this Agreement is: July 1, 2003 through June 30, 2006

3. The maximum amount of this Agreement is: \$37,000,000.00
Thirty Seven Million Dollars.

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of this Agreement.

Exhibit A – Scope of Work	7 pages
Exhibit B – Budget Detail and Payment Provisions	4 pages
Exhibit B, Attachment I – Certification of Non-Federal Matching Funds for Medi-Cal Administrative Activities	1 page
Exhibit B, Attachment II – Claiming Overhead Costs	1 page
Exhibit B, Attachment III – Requirements of Enhanced Federal Financial Participation	1 page
Exhibit C * – General Terms and Conditions	GTC 201 dated 2/20/01
Exhibit D(F) – Special Terms and Conditions	26 pages
Exhibit E – Additional Provisions	4 pages
Exhibit F – Contractor's Release	1 pages

See Exhibit E, Provision 1 for additional incorporated exhibits.

Items shown above with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.
These documents can be viewed at <http://www.dgs.ca.gov/contracts>.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR

CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.)

San Bernardino County

BY (Authorized Signature)

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Dennis Hansberger, Chairman, Board of Supervisors

ADDRESS

**351 N. Mt. View Avenue Room 303
San Bernardino, CA 92415**

STATE OF CALIFORNIA

AGENCY NAME

California Department of Health Services

BY (Authorized Signature)

DATE SIGNED (Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Edward Stahlberg, Chief, Program Support Branch

ADDRESS

1800 3rd. Street, Rm. 455, P.O. Box 942732, Sacramento, CA 94234-7320

*California Department of General
Services Use Only*

☐ Exempt per:

Exhibit A
Scope of Work

1. Contractor agrees to provide to the Department of Health Services (DHS) the services described herein:

Contractor shall perform Medi-Cal administrative activities on behalf of the State Department of Health Services (SDHS) to assist in the proper and efficient administration of the Medi-Cal Program by improving the availability and accessibility of Medi-Cal Services to Medi-Cal eligible and potentially eligible individuals and their families. These activities include: outreach, facilitating Medi-Cal application, Medi-Cal non-emergency transportation, contracting for Medi-Cal services, program planning and policy development and Medi-Cal Administrative Activities Coordination and Claims Administration.

2. The activities shall be performed at **San Bernardino County** applicable facilities within the **San Bernardino County** geographic region.
3. The services shall be provided during normal Contractor working hours.
4. The project representatives during the term of this agreement will be:

Department of Health Services

Ms. Georgia Rivers, Chief
Administrative Claiming Operations Unit
Telephone: (916) 657-0627
Fax: (916) 657-0957

Contractor

Telephone: (909) 387 – 6630
Fax: (909) 387 - 6886

Direct all inquiries to:

Department of Health Services

Administrative Claiming Operations Unit
Attention: Ms. Hazel Hoang, Analyst
714 P Street, Room 1640
Sacramento, CA 95814
Telephone: (916) 653-6339
Fax: (916) 657-0957

Contractor

Public Health Department
Attention: Ms. Theresa Ruvalcaba
351 North Mountain View Avenue
San Bernardino, CA 92415-0010
Telephone: (909) 387 – 6630
Fax: (909) 387 - 6886

Either party may make changes to the information above by giving written notice to the other party. Said changes shall not require an amendment to this agreement.

**Exhibit A
Scope of Work**

ARTICLE I - LGA RESPONSIBILITIES

- A. Perform Medi-Cal Administrative Activities (MAA) on behalf of the SDHS to assist in the proper and efficient administration of the Medi-Cal Program by improving the availability and accessibility of Medi-Cal services to Medi-Cal eligible and potentially eligible individuals, and their families (where appropriate) served by the Local Governmental Agency (LGA).

The following MAA are eligible for Federal Financial Participation (FFP) only when they are identified in a MAA Claiming Plan approved by the State and the Centers for Medicare and Medicaid Services (CMS).

1. **MEDI-CAL OUTREACH:** The only allowable Medi-Cal outreach for purposes of Medi-Cal administrative claiming is to groups or individuals targeted to two goals:
 - a. Bringing potential eligibles into the Medi-Cal system for the purpose of determining Medi-Cal eligibility; and
 - b. Bringing Medi-Cal eligible people into Medi-Cal services (information and referral).

Outreach may consist of discrete campaigns or may be an ongoing activity, such as: sending teams of employees into the community to contact homeless alcoholics or drug abusers; establishing a telephone or walk-in service for referring persons to Medi-Cal services or eligibility offices; operating a drop-in community center for underserved populations, such as minority teenagers where Medi-Cal eligibility and service information is disseminated. Local Education Agencies (LEAs) may only conduct outreach to the populations served by their school districts, i.e., students and their parents or guardians. LEA staff providing Medi-Cal Targeted Case Management (TCM) services pursuant to W&I Code Section 14132.06, shall not be permitted to claim for MAA.

NOTE: Public health outreach conducted by LGAs shall not duplicate the requirements on Medi-Cal managed care providers to pursue the enrollment of Medi-Cal eligibles in their service areas.

NON ALLOWABLE: Some activities are not considered Medi-Cal outreach under any circumstances, as follows:

- a. General preventive health education programs or campaigns addressed to lifestyle changes in the general population (e.g., **Substance Abuse Narcobris Education (SANE), Drug Abuse Resistance Education (DARE)**, dental prevention, antismoking, alcohol reduction, etc.) are not allowable MAA.
- b. Outreach campaigns directed toward encouraging persons to access social, educational, legal or other services not covered by Medi-Cal are not allowable.

ALLOWABLE: Allowable outreach activities shall be discounted by the Medi-Cal percentage or not discounted as follows:

- a. **NOT DISCOUNTED:** Outreach campaigns directed to the entire population to encourage potential Medi-Cal eligibles to apply for Medi-Cal are allowable, and the costs do not have to be discounted by the Medi-Cal percentage. These campaigns are Medi-Cal only eligibility outreach campaigns.

Outreach campaigns directed toward bringing Medi-Cal eligibles into Medi-Cal covered services are allowable and the costs do not have to be discounted by the Medi-Cal percentage. In such campaigns, the language should clearly indicate that the message:

is directed only to persons eligible for Medi-Cal, and not the general public. These campaigns are service campaigns, targeted on specific Medi-Cal services, such as Early and Periodic Screening, Diagnosis and Treatment (EPSDT).

Exhibit A
Scope of Work

A health education program or campaign may be allowable as a Medi-Cal administrative cost if it is targeted specifically to Medi-Cal services and for Medi-Cal eligible individuals, such as an educational campaign on immunization addressed to parents of Medi-Cal children. If the entire campaign is focused on Medi-Cal, the costs need not be discounted.

- b. **DISCOUNTED:** Outreach campaigns directed towards bringing specific high risk populations (including both Medi-Cal and non-Medi-Cal persons) for example low income pregnant women or substance abusers into health care services are only allowable to the extent they bring Medi-Cal eligibles into Medi-Cal services the costs of these activities are claimable as Medi-Cal administration, but discounted by the Medi-Cal percentage.

If a specific Medi-Cal health education program is included as part of a broader general health education program, the Medi-Cal portion may be allowable if the cost of the general health education program is discounted according to the Medi-Cal percentage.

Telephone, walk-in, or drop-in services for referring persons to Medi-Cal services, sometimes called "Information and Referral" are also allowable and discounted by the Medi-Cal percentage.

County-wide averages or other methods approved by the State and the CMS for calculating the Medi-Cal percentage discount may be utilized.

The LGA may contract with non-governmental agencies or programs to conduct outreach activities. The subcontracted providers of TCM services, except in local education agencies, may conduct outreach activities, so long as the TCM service(s) and outreach activities are not performed by the same subcontractor employee. The subcontracted providers shall maintain an accurate accounting and reporting of the time spent on providing TCM services and performing allowable MAA outreach activities.

2. **FACILITATING MEDI-CAL APPLICATION (Eligibility Intake):** This activity includes explaining Medi-Cal eligibility rules and the Medi-Cal eligibility process to prospective applicants; assisting an applicant to fill out a Medi-Cal eligibility application; gathering information related to the application and eligibility determination or redetermination from a client, including resource information and third party liability information, as a prelude to submitting a formal Medi-Cal application to the county welfare department; and/or providing necessary forms and packaging all forms in preparation for the Medi-Cal eligibility determination. This activity does not include the eligibility determination itself. These costs do not have to be discounted by the Medi-Cal percentage.

The LGA may contract with non-governmental agencies or programs to conduct eligibility intake activities. Providers of TCM services may conduct eligibility intake, so long as the TCM service(s) and eligibility intake are not performed by the same employee. The non-governmental agencies or programs shall maintain an accurate accounting and reporting of the time spent on providing TCM services and performing Medi-Cal eligibility intake activities.

3. **NON-EMERGENCY, NON-MEDICAL TRANSPORTATION:** The actual costs of arranging and providing non-emergency, non-medical transportation, and accompaniment, when medically necessary, by an attendant (not a TCM case manager) of Medi-Cal eligibles to Medi-Cal services are allowable as a Medi-Cal administrative cost to the extent that such costs are actually borne by the LGA in accordance with 42 Code of Federal Regulations, Section 440.170. Examples of allowable non-emergency, non-medical transportation costs include taxi vouchers, bus tokens, mileage, etc. The cost of providing non-emergency, non-medical transportation for which no actual cost is borne by the State or LGA is not an allowable MAA cost.

SEPARATE TRANSPORTATION UNIT OR SERVICE: In situations where a LGA operates a separate transportation unit or contracts for the provision of transportation services, the costs of the unit or the contractor of actually providing the Medi-Cal non-emergency, non-medical transportation services for Medi-Cal eligibles to Medi-Cal covered services is an allowable Medi-Cal administrative cost. Costs may be calculated on a per mile or per trip basis for each Medi-Cal client transported, or by any other method allowed by Federal Law and Regulation.

Exhibit A
Scope of Work

TRANSPORTATION COSTS AND TCM: The costs of arranging for transportation of Medi-Cal eligibles to Medi-Cal services are part of the TCM rate. Therefore, the costs incurred by TCM case managers in arranging transportation for Medi-Cal eligibles to Medi-Cal services are not claimable as Medi-Cal administration. The TCM rate includes the travel costs incurred by the TCM case manager in providing the TCM services. A TCM case manager may transport or accompany a Medi-Cal eligible to a Medi-Cal service appointment only if the case manager is performing case management functions while actually accompanying the client. In such situations, the costs of the accompanying and transportation will be in the TCM rate and should not be claimed separately as an administrative activity.

4. **MAA IMPLEMENTATION TRAINING:** MAA Implementation Training activities include the giving or receiving of training related to the overall implementation of the MAA program. For example, general training on MAA and/or conducting MAA time surveys.

OTHER TRAINING: Training activities shall be time studied in accordance with the purpose of the training. For example, training related to Medi-Cal outreach shall be claimed as "Outreach"; training related to assisting a potential applicant complete a Medi-Cal application shall be claimed as "Facilitating Medi-Cal Application", etc. Training that is unrelated to MAA is not allowable.

5. **CONTRACTING FOR MEDI-CAL SERVICES:** This activity involves entering into contracts with community based organizations or other provider agencies for the provision of Medi-Cal services other than TCM and/or MAA. The costs of TCM subcontract administration should be included in the TCM rate.

NOTE: LGAs have the option of claiming the costs of contract administration for allowable MAA, such as Outreach, under that activity or the costs may be claimed under Contract Administration. Under no circumstances are the costs of contract administration for allowable MAA to be claimed under both Contract Administration and the activity, such as Outreach. Contracting for Medi-Cal services may only be claimed under Contract Administration.

Contracting for Medi-Cal services and/or MAA is claimable as an administrative activity when the administration of those contracts meets all of the following criteria:

- a. The contract administration is performed by an identifiable unit of one or more employees, whose tasks officially involve contract administration, according to the duty statements or job descriptions of the employees being claimed.
- b. The contract administration involves contractors that provide Medi-Cal services and/or MAA. The costs of contracting for TCM services with non-LGA providers should be claimed as part of the TCM rate. These costs can not be separately claimed as MAA.
- c. TCM case managers and LGA subcontractors, except for school district staff, cannot claim for contract management. It is claimable only when performed by a LGA. Schools may contract for Medi-Cal services in connection with the LEA billing option.
- d. The administrative costs of contracting by LGAs as service providers under managed care arrangements may not be claimed administratively and are considered to be in the managed care capitation payment to the LGA.
- e. The contract administration must be directed to one or more of the following goals:
 - (1) Identifying, recruiting, and contracting with community agencies as Medi-Cal service contract providers;
 - (2) Providing technical assistance to Medi-Cal subcontractors regarding County, State and Federal regulations;

Exhibit A
Scope of Work

- (3) Monitoring provider agency capacity and availability; and
- (4) Ensuring compliance with the terms of the contract.

The contracts being administered must be for Medi-Cal services and/or MAA and may involve Medi-Cal populations only or may be general medical service contracts involving Medi-Cal and other indigent, non-Medi-Cal populations. When the contract involves a Medi-Cal and non-Medi-Cal population, the costs of contract administration shall be **discounted** by the Medi-Cal percentage.

6. **PROGRAM PLANNING AND POLICY DEVELOPMENT (PP&PD):** This activity may be claimed at the ENHANCED rate (75 percent FFP) if performed by an SPMP, or the NON-ENHANCED rate (50 percent FFP) if performed by a non-SPMP.

NOT ALLOWABLE: This activity is not allowable if staff performing this function are employed full-time by LGA service providers, such as clinics. The full costs of the employees salary are assumed to be included in the billable fee-for-service rate and separate MAA claiming is not allowed.

This activity is not allowable if staff who deliver services part-time in a LGA service provider setting, such as a clinic, are performing PP&PD activities relating to the service provider setting in which they deliver services.

This activity is not allowable when performed by a TCM case manager.

ALLOWABLE: This activity is claimable when performed, either part-time or full-time, by one or more LGA/LEA employees and subcontractors whose tasks officially involve PP&PD. LGA/LEA employees performing this activity must have the tasks identified in the employees position descriptions/duty statements. If the programs serve both Medi-Cal and non-Medi-Cal clients, the costs of PP&PD activities must be allocated according to the Medi-Cal percentages being served by the programs.

This activity is claimable as a direct charge for Medi-Cal administration only when program planning and policy development is performed by a unit of one or more LGA/LEA employees who spend 100 percent of their paid working time performing this activity. This activity is claimable ONLY if the administrative amounts being claimed for PP&PD persons and activities are not otherwise included in other claimable cost pools; and the amounts being claimed for such persons employed by **(and activities taking place in) a service provider setting** are not otherwise being reimbursed through the billable service rate of that provider. Costs for persons performing this activity less than 100 percent of their time will be based on a time-survey.

In LGAs with county-wide managed care arrangements, PP&PD activities are claimable as Medi-Cal administration only for those services that are excluded from the managed care contracts.

Under the conditions specified above, the following tasks are allowable as MAA under this activity:

- a. Developing strategies to increase Medi-Cal system capacity and close Medi-Cal service gaps. This includes analyzing Medi-Cal data related to a specific program or specific group.
 - b. Interagency coordination to improve delivery of Medi-Cal services.
 - c. Developing resource directories of Medi-Cal services/providers.
 - d. For subcontractors, some PP&PD support services are allowable, e.g., developing resource directories, preparing Medi-Cal data reports, conducting needs assessments, or preparing proposals for expansion of Medi-Cal services.
7. **GENERAL ADMINISTRATION:** This includes activities that are eligible for cost distribution on an OMB Circular A-87 approved cost allocation basis. These costs are to be distributed proportionately to all of the activities performed:

**Exhibit A
Scope of Work**

- a. Attend or conduct general, non-medical staff meetings;
 - b. Develop and monitor program budgets;
 - c. Provide instructional leadership, site management, supervise staff, or participate in employee performance reviews;
 - d. Review departmental or unit procedures and rules;
 - e. Present or participate in, in-service orientations and programs;
 - f. Participate in health promotion activities for employees of the LGA; and
 - g. Earn compensatory time off (CTO).
8. **PAID TIME OFF:** This activity is to be used by all staff involved in MAA to record usage of paid leave, including vacation, sick leave, holiday time and any other employee time off that is paid. This does not include lunch or meal breaks, off payroll time, or CTO which shall be allocated as prescribed by the State.
9. **TCM/MAA COORDINATION AND LGA CLAIMS ADMINISTRATION:** LGA employees whose position description/duty statement includes the administration of TCM and MAA on a LGA-wide basis, may claim for the costs of these activities on the MAA invoice as a direct charge. Costs incurred in the preparation and submission of MAA claims at any level, including staff time, supplies, and computer time, may be direct charged.
- If the TCM/MAA Coordinator and/or claims administration staff are performing this function part-time, along with other duties, they must certify the percentage of total time spent performing the duties of TCM/MAA coordination and/or claims administration. The percentage certified for the TCM/MAA Coordinator and/or claims administration staff activities must be used as the basis for federal claiming.
- A. The TCM/MAA Coordinator and claims administration staff may claim the costs of the following activities, as well as any other reasonable activities directly related to the LGA's administration of TCM services and MAA at the LGA-wide level:
- a. Drafting, revising, and submitting MAA Claiming Plans, and TCM performance monitoring plans.
 - b. Serving as liaison with and monitoring the performance of claiming programs within the LGA and with the State and Federal Governments on TCM and MAA.
 - c. Administering LGA claiming, including overseeing, preparing, compiling, revising and submitting TCM and MAA invoices on a LGA-wide basis to the State.
 - d. Attending training sessions, meetings, and conferences involving TCM and/or MAA.
 - e. Training LGA program and subcontractor staff on State, Federal, and Local requirements for TCM and/or MAA claiming.
 - f. Ensuring that TCM and/or MAA invoices do not duplicate Medi-Cal invoices for the same services or activities from other providers. This includes ensuring that services are not duplicated when a Medi-Cal beneficiary receives TCM services from more than one case manager.

NOTE: The costs of the TCM/MAA Coordinator's time and claims administration staff time must not be included in the TCM rate or in MAA claiming, since the costs associated with the time are to be direct charged. Charges for supervisors, clericals, and support staff for these employees may be allocated based upon the percentage of certified time of the TCM/MAA Coordinator and claims administration staff. The costs of TCM claiming activity at the TCM provider level are to be included in the TCM rate.

Exhibit A
Scope of Work

- B. Conduct an annual time survey for one month as selected by the State, using the SDHS forms DHS 7093 and DHS 7094. The month selected will be disseminated through policy directives issued by the state. The survey will identify:
- (1) All time spent on each of the above allowable MAA.
 - (2) Non-claimable activities.
 - (3) General administration and paid time off in which they will be proportionately allocated to all activities.
 - (4) The activities of staff providing Medi-Cal administration and must be documented in accordance with the provisions of 42 CFR Sections 432.50, 433.32, and 433.34, and 45 CFR Parts 74 and 95, and OMB Circular A-87.

NOTE: All non-Medi-Cal related activities and direct patient care services shall be time surveyed to "Other Programs/Activities" or "Direct Patient Care" on forms DHS 7093 and DHS 7094, as appropriate.

- C. Comply with enabling legislation, regulations, administrative claiming process directives, policies, and program letters of the Medi-Cal Policy Division and the Administrative Division of the SDHS, which define program specific allowable MAA..
- D. Provide to the State, a comprehensive MAA Claiming Plan, in duplicate, in the format specified by the State. The claiming plan must be approved by the State and CMS prior to the submission of MAA invoices. Invoices received by the State prior to the approval of the MAA Claiming Plan will be rejected.
- E. Not discriminate against any eligible person because of race, religion, political beliefs, color, national or ethnic origin, ancestry, mental or physical disability, medical condition, marital status, age or sex.
- F. Ensure all applicable State and federal requirements, as identified in Article I.C, are met in performing MAA under this Contract. It is understood and agreed that failure by the LGA to ensure all applicable State and Federal requirements not met in performing MAA under this Contract shall be sufficient cause for the State to deny or recoup payments to the LGA and/or to terminate this Contract.
- G. Request a letter of intent to participate in the MAA Program six (6) months prior to the termination of contract.

Exhibit B
Budget Detail and Payment Provisions

1. Invoicing and Payment

- A. For services satisfactorily rendered, and upon receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the rates specified herein, which is attached hereto and made a part of this Agreement.
- B. Invoices shall include the Agreement Number and shall be submitted in triplicate not more frequently than quarterly in arrears to:

State Department of Health Services
Chief, Administrative Claiming Operations Unit
714 P Street, Room 1640
Sacramento, CA 95814

- C. Invoices shall:
 - 1) Be prepared on company letterhead.
 - 2) Bear the Contractor's name as shown on the agreement.
 - 3) Identify the billing and/or performance period covered by the invoice.
 - 4) Itemize allowable costs for the billing period.
 - 5) Be signed by an authorized official, employee or agent certifying that the expenditures claimed represent actual expenses for the service performed under this contract.

2. Budget Contingency Clause

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an agreement amendment to Contractor to reflect the reduced amount.
- C. No legal liability on the part of the State for any payment may arise under this agreement until funds are made available and until the Local Governmental Agency (LGA) has received notice of funding availability, which will be confirmed in writing.
- D. Notwithstanding any other provision of this Contract, the State shall be held harmless, in accordance with paragraphs A and B, from any federal audit disallowance and interest resulting from payments made to the LGA pursuant to W&I Code Section 14132.47 and this

Exhibit B
Budget Detail and Payment Provisions

applicable to any previously disallowed MAA or claim, may be held in abeyance, with no payment made, until the federal disallowance issue is resolved.

- F. To the extent that a federal audit disallowance and interest results from a claim or claims for which the LGA has received reimbursement for MAA performed by a non-governmental entity under contract with, and on behalf of, the LGA, the State shall be held harmless by that particular LGA for 100 percent of the amount of any such final federal audit disallowance and interest

3. Prompt Payment Clause

Payment will be made in accordance with, and within the time specified in, Government Code Chapter 4.5, commencing with Section 927.

4. Amounts Payable

- A. The amounts payable under this agreement shall not exceed:
- 1) \$9,000,000.00 for the budget period of 07/01/03 through 06/30/04,
 - 2) \$12,000,000.00 for the budget period of 07/01/04 through 06/30/05,
 - 3) \$16,000,000.00 for the budget period of 07/01/05 through 06/30/06.
- B. Reimbursement shall be made for allowable expenses up to the amount annually encumbered commensurate with the state fiscal year in which services are performed and/or goods are received.
- C. The Contractor must maintain records reflecting actual expenditures for each state fiscal year covered by the term of this agreement.

5. Timely Submission of Final Invoice

- A. A final undisputed invoice shall be submitted for payment no more than ninety (90) calendar days following the expiration or termination date of this agreement, unless a later or alternate deadline is agreed to in writing by the program contract manager. Said invoice should be clearly marked "Final Invoice", thus indicating that all payment obligations of the State under this agreement have ceased and that no further payments are due or outstanding.
- B. The State may, at its discretion, choose not to honor any delinquent final invoice if the Contractor fails to obtain prior written State approval of an alternate final invoice submission deadline. Written State approval shall be sought from the program contract manager prior to the expiration or termination date of this agreement.
- C. The Contractor is hereby advised of its obligation to submit, with the final invoice, a "Contractor's Release (Exhibit E)" acknowledging submission of the final invoice to the State and certifying the approximate percentage amount, if any, of recycled products used in

Exhibit B
Budget Detail and Payment Provisions

- 3) Purchase or improve land, purchase, construct or permanently improve any building or other facility or purchase major medical equipment;
- 4) Satisfy any requirement for the expenditure of non-federal funds as a condition for the receipt of federal funds;
- 5) Provide financial assistance to any entity other than a public or nonprofit private entity for research or training services; or
- 6) Make payment for any item or service (other than an emergency item or service) furnished by: 1) an individual or entity during the period such individual or entity is excluded from participation in any other federally funded program, or 2) at the medical direction or on the prescription of a physician during the period when the physician is excluded from participation in any other federally funded program.

7. Invoice and Expenditure information

- A. Provide the State with complete invoice and expenditure information to include in the Center for Medicare and Medicaid Services (CMS) 64 no later than **eighteen (18) months** after the end of the quarter for which the claim was submitted. This information shall be provided in a standardized Summary Invoice and Detailed Invoice as identified in Exhibit E, Article II, State Responsibilities. The Summary Invoice must be submitted under the LGA's original letterhead and have an original signature of a person who has been granted the authority by the LGA to sign this invoice on behalf of the LGA.

The Detailed Invoice identifies the claim categories to which expenditure data must adhere for insertion into the CMS 64. A separate detailed invoice shall be submitted for each program, clinic, non-governmental entity and subcontractor claiming MAA costs pursuant to this Contract, except for contracted employees under the direct control of the LGA. Contracted employees' costs shall be aggregated and reported in accordance with the MAA Invoice instructions. The Detailed Invoice(s) for each of the programs being claimed shall correspond to the name of the claiming programs identified in the LGAs MAA Claiming Plan.

- B. Certify the non-federal match from the LGA's General Fund, or from any other funds allowed under federal law and regulation, for Title XIX funds claimed for MAA performed pursuant to W&I Code Section 14132.47. The following certification statement shall be made on each invoice submitted to the State for payment for the performance of MAA:

"I certify under penalty of perjury that the information provided on this invoice is true and correct, based on actual expenditures for the period claimed, and that the funds/contributions have been expended as necessary for federal matching funds pursuant to the requirements of 42 CFR 433.51 for allowable administrative activities and that these claimed expenditures have not been nor will not subsequently be used for federal match in this or any other program. I have notice that the information is to be used for filing of a claim with the Federal Government for federal

Exhibit B
Budget Detail and Payment Provision

submission of a quarterly Summary Invoice and Detailed Invoice(s), the State agrees to process claims for reimbursement. Reimbursement is conditioned on the LGA supplying the aforementioned valid and substantiated information, satisfactorily to the State within the time limits specified in this Contract. Reimbursement shall not be withheld pending the submission of similar claims by other LGAs who have entered into a similar Contract.

- b. The Summary Invoice and Detailed Invoice shall be submitted quarterly, in triplicate, to:

State Department of Health Services
Chief, Administrative Claiming Operations Unit
714 P Street, Room 1640
Sacramento, CA 95814

- c. The attached Exhibit B, Attachment II entitled "Claiming Overhead Costs" and Attachment III entitled "Requirements of Enhanced Federal Financial Participation" respectively, are incorporated by reference and made part of this Contract as though fully set forth herein. Both the State and the LGA agree that the validity and enforceability of this Contract are contingent upon the availability of funds appropriated by the U.S. Congress.
- d. This Contract will automatically terminate, without penalty by operation of law, at the end of the term for which funds are appropriated by the U.S. Congress.
- e. Transfer of funds is contingent upon the availability of FFP.
- f. The LGA shall reply in a timely manner, to any request for information or to audit exceptions by state and federal audit agencies that directly relate to the MAA to be performed under this Contract.

Both parties to this Contract recognize that the LGA is liable only for an audit exception which relates to administrative activities under this contract, and has no liability for any other LGA which may enter into a similar Contract with the State for the performance of MAA.

9. Participation of Medi-Cal Administrative Claiming Process

- a. As a condition of participation in the Medi-Cal Administrative Claiming process, and in recognition of revenue generated to each LGA in the Medi-Cal Administrative Claiming process, each LGA shall pay an annual participation fee through a mechanism agreed to by the State and LGAs, or, if no agreement is reached by August 1 of each year, directly to the State.
- b. The participation fee shall be used to cover the cost of administering the Medi-Cal Administrative Claiming process, including, but not limited to, claims processing, technical assistance, and monitoring. The State shall determine and report staffing requirements upon which projected costs will be based.

Exhibit B
ATTACHMENT 1

CERTIFICATION OF NON-FEDERAL MATCHING FUNDS
FOR MEDI-CAL ADMINISTRATIVE ACTIVITIES

This is to certify that **San Bernardino County** will expend one hundred percent (100%) of the non-federal share of the cost of performing Medi-Cal Administrative Activities. The funds will expend for this purpose shall be from the local governmental agency's general fund or from any other funds allowable under federal law and regulation.

By: _____
Authorized Representative (Signature) Date
Dennis Hansberger

Authorized Representative (Print)
Chairman, Board of Supervisors

Title

**Exhibit B
ATTACHMENT II**

CLAIMING OVERHEAD COSTS

If one of the components of cost to be claimed as part of Medi-Cal administration is Local Governmental Agency (LGA) overhead costs, then there are certain federal requirements that must be met. In order to claim LGA administrative overhead (County or City Central Services) costs, also referred to as "External Administrative Overhead" costs, these entities must have a State Controller's Office approved LGA administrative overhead cost allocation plan for the applicable period and these costs must be claimed in accordance with the plan. A local governmental agency's plan is submitted to the California State Controller's Office, which was delegated authority from the Federal Government to approve it.

Internal (departmental) administrative overhead costs are allowable for FFP only if there is a departmental overhead indirect cost allocation plan prepared and on file for audit purposes for the applicable period and costs are claimed in accordance with it following Federal Office of Management and Budget (OMB) Circular A-87 guidelines.

NOTE: Both external and internal administrative cost allocation plans must comply with provisions of the federal OMB Circular A-87, entitled "Cost principles applicable to grants and contracts with State and local governments" and Federal Publication OASC-10, entitled "A Guide for State and Local Governments/Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government."

**Exhibit B
ATTACHMENT III**

REQUIREMENTS OF ENHANCED FEDERAL FINANCIAL PARTICIPATION

Stipulations for enhanced funding:

Per 42 CFR, Section 432.2 et seq., and Section 433.1 et seq., Skilled Professional Medical Personnel (SPMP), and directly supporting staff, eligible for enhanced funding are defined as physicians, dentists, nurses, and other specialized personnel who have professional education and training in the field of medical care or appropriate medical practice and who are in an employer-employee relationship with the LGA. SPMP's do not include other nonmedical health professionals such as public administrators, medical analysts, lobbyists, senior managers or administrators of public assistance programs or of the Medi-Cal program.

The seventy-five percent (enhanced) federal matching rate is only available for an LGA that is contractually linked to the State Department of Health Services to perform MAA. The enhanced federal matching rate can be claimed for salaries, benefits, travel and training of SPMP and their directly supporting clerical staff who are in an employee-employer relationship with the LGA and are involved in activities that are necessary for the proper and efficient administration of the Medi-Cal Program.

Fifty percent (non-enhanced) federal matching rate can be claimed for any of the LGA's staff, or subcontractors, involved in the performance of activities that are necessary for the proper and efficient administration of the Medi-Cal Program. This includes claiming for SPMP and directly supporting clerical staff performing related activities that are non-enhanced. Additionally, the ability to claim SPMP under the MAA Program is activity driver not education based. Expenditures for the actual furnishing of medical services by SPMP do not qualify for reimbursement via Medi-Cal Administrative Claiming, as medical services are paid for in the fee-for-services system.

Qualifying SPMP costs may be matched at the 75 percent rate in proportion to the time worked by SPMP in performing those duties that require professional medical knowledge and skills, as evidenced by position descriptions, job announcements, or job classifications.

California Home

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Welcome to **California** **HOLLYWOOD****Legal Services** ☐ My CA ☒ This Site**GTC201 - Short Form****EXHIBIT C****GENERAL TERMS AND CONDITIONS**

1. **APPROVAL:** This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.

2. **AMENDMENT:** No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

3. **ASSIGNMENT:** This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.

4. **AUDIT:** Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (GC 8546.7, PCC 10115 et seq., CCR Title 2, Section 1896).

5. **INDEMNIFICATION:** Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.

6. **DISPUTES:** Contractor shall continue with the responsibilities under this Agreement during any dispute.

7. **TERMINATION FOR CAUSE:** The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. **INDEPENDENT CONTRACTOR:** Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. **RECYCLING CERTIFICATION:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of recycled content, both post consumer waste and secondary waste as defined in the Public Contract Code, Sections 12161 and 12200, in materials, goods, or supplies offered or products used in the performance of this Agreement, regardless of whether the product meets the required recycled product percentage as defined in the Public Contract Code, Sections 12161 and 12200. Contractor may certify that the product contains zero recycled content. (PCC 10233, 10308.5, 10354)

10. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into

this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC201 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: "For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with, that:

a). The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department."

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be effected thereby.

18. UNION ORGANIZING For all contracts, except fixed price contracts of \$50,000 or less, the Contractor acknowledges that:

By signing this agreement Contractor hereby acknowledges the applicability of Government Code Section 16645 through Section 16649 to this agreement and agrees to the following:

- a) Contractor will not assist, promote or deter union organizing by employees performing work on a state service contract, including a public works contract.
- b) No state funds received under this agreement will be used to assist, promote or deter union organizing.
- c) Contractor will not, for any business conducted under this agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.
- d) If Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, Contractor will maintain records sufficient to show that no reimbursement from state funds has been sought for these costs, and that Contractor shall provide those records to the Attorney General upon request.

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Special Terms and Conditions*(For federally funded service contracts and grant awards)*

The use of headings or titles throughout this exhibit is for convenience only and shall not be used to interpret or to govern the meaning of any specific term or condition. The terms "contract", "Contractor" and "Subcontractor" shall also mean "grant", "Grantee" and "Subgrantee" respectively.

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provisions including sanctions for noncompliance provided, however, that in the event the Contractor becomes involved in, or is threatened with litigation by a subcontractor or vendor as a result of such direction by DHS, the Contractor may request in writing to DHS, who, in turn, may request the United States to enter into such litigation to protect the interests of the State and of the United States.

2. Travel and Per Diem Reimbursement

(Applicable if travel and/or per diem expenses are reimbursed with contract funds.)

Reimbursement for travel and per diem expenses from DHS under this agreement shall, unless otherwise specified in this agreement, be at the rates currently in effect, as established by the California Department of Personnel Administration (DPA), for nonrepresented state employees. If the DPA rates change during the term of the agreement, the new rates shall apply upon their effective date and no amendment to this agreement shall be necessary. Exceptions to DPA rates may be approved by DHS upon the submission of a statement by the Contractor indicating that such rates are not available to the Contractor. No travel outside the State of California shall be reimbursed without prior written authorization from DHS.

3. Procurement Rules

(Applicable to all agreements in which equipment, miscellaneous property, commodities and/or supplies are furnished by DHS or expenses for said items are reimbursed with state or federal funds.)

a. Equipment definitions

Wherever the term equipment and/or miscellaneous property is used, the following definitions shall apply:

(1) **Major equipment:** A tangible or intangible item having a base unit cost of \$5,000 or more with a life expectancy of one (1) year or more and is either furnished by DHS or the cost is reimbursed through this agreement. Software and videos are examples of intangible items that meet this definition.

(2) **Minor equipment:** A tangible item having a base unit cost of less than \$5,000 with a life expectancy of one (1) year or more that is listed on the DHS Asset Management Unit's Minor Equipment List and is either furnished by DHS or the cost is reimbursed through this agreement. Contractors may obtain a copy of the Minor Equipment List by making a request through the DHS program contract manager.

(3) **Miscellaneous property:** A specific tangible item with a life expectancy of one (1) year or more that is either furnished by DHS or the cost is reimbursed through this agreement. Examples include, but are not limited to: furniture (excluding modular furniture), cabinets, typewriters, desktop calculators, portable dictators, non-digital cameras, etc.

b. **Government and public entities** (including state colleges/universities and auxiliary organizations), whether acting as a contractor and/or subcontractor, may secure all commodities, supplies, equipment and services related to such purchases that are required in performance of this agreement. Said procurements are subject to Paragraphs d through h of Provision 3. Paragraph c of Provision 3 shall also apply, if equipment purchases are delegated to subcontractors that are nonprofit organizations or commercial businesses.

c. **Nonprofit organizations and commercial businesses**, whether acting as a contractor and/or subcontractor, may secure commodities, supplies, equipment and services related to such purchases for performance under this agreement.

(1) Equipment purchases shall not exceed \$50,000 annually.

To secure equipment above the annual maximum limit of \$50,000, the Contractor shall make arrangements through the appropriate DHS program contract manager, to have all remaining

- h. DHS may, with cause (e.g., with reasonable suspicion of unnecessary purchases or use of inappropriate purchase practices, etc.), withhold, cancel, modify, or retract the delegated purchase authority granted under Paragraphs b and/or c of Provision 3 by giving the Contractor no less than 30 calendar days written notice.

4. Equipment Ownership / Inventory / Disposition

(Applicable to agreements in which equipment and/or miscellaneous property is furnished by DHS and/or when said items are purchased or reimbursed with state or federal funds.)

- a. Wherever the term equipment and/or miscellaneous property is used in Provision 4, the definitions in Provision 3, Paragraph a shall apply.

All equipment and/or miscellaneous property that are purchased/reimbursed with agreement funds or furnished by DHS under the terms of this agreement and not fully consumed in performance of this agreement shall be considered state equipment and the property of DHS.

- (1) DHS requires the reporting, tagging and annual inventorying of all equipment and/or miscellaneous property that is furnished by DHS or purchased/reimbursed with funds provided through this agreement.

Upon receipt of equipment and/or miscellaneous property, the Contractor shall report the receipt to the DHS program contract manager. To report the receipt of said items and to receive property tags, Contractor shall use a form or format designated by DHS' Asset Management Unit. If the appropriate form (i.e., Contractor Equipment Purchased with DHS Funds) does not accompany this agreement, Contractor shall request a copy from the DHS program contract manager.

- (2) If the Contractor enters into an agreement with a term of more than twelve months, the Contractor shall submit an annual inventory of state equipment and/or miscellaneous property to the DHS program contract manager using a form or format designated by DHS' Asset Management Unit. If an inventory report form (i.e., Inventory/Disposition of DHS-Funded Equipment) does not accompany this agreement, Contractor shall request a copy from the DHS program contract manager. Contractor shall:

- (a) Include in the inventory report, equipment and/or miscellaneous property in the Contractor's possession and/or in the possession of a subcontractor (including independent consultants).
 - (b) Submit the inventory report to DHS according to the instructions appearing on the inventory form or issued by the DHS program contract manager.
 - (c) Contact the DHS program contract manager to learn how to remove, trade-in, sell, transfer or survey off, from the inventory report, expired equipment and/or miscellaneous property that is no longer wanted, usable or has passed its life expectancy. Instructions will be supplied by DHS' Asset Management Unit.
- b. Title to state equipment and/or miscellaneous property shall not be affected by its incorporation or attachment to any property not owned by the State.
 - c. Unless otherwise stipulated, DHS shall be under no obligation to pay the cost of restoration, or rehabilitation of the Contractor's and/or Subcontractor's facility which may be affected by the removal of any state equipment and/or miscellaneous property.
 - d. The Contractor and/or Subcontractor shall maintain and administer a sound business program for ensuring the proper use, maintenance, repair, protection, insurance and preservation of state equipment and/or miscellaneous property.
 - (1) In administering this provision, DHS may require the Contractor and/or Subcontractor to repair or replace, to DHS' satisfaction, any damaged, lost or stolen state equipment and/or

- (b) The Contractor and/or Subcontractor shall, as soon as practical, furnish a copy of the certificate of insurance to the DHS program contract manager.
- (c) The Contractor and/or Subcontractor agree that bodily injury and property damage liability insurance, as required herein, shall remain in effect at all times during the term of this agreement or until such time as the motor vehicle is returned to DHS.
- (d) The Contractor and/or Subcontractor agree to provide, at least thirty (30) days prior to the expiration date of said insurance coverage, a copy of a new certificate of insurance evidencing continued coverage, as indicated herein, for not less than the remainder of the term of this agreement, the term of any extension or continuation thereof, or for a period of not less than one (1) year.
- (e) The Contractor and/or Subcontractor, if not a self-insured government and/or public entity, must provide evidence, that any required certificates of insurance contain the following provisions:
 - [1] The insurer will not cancel the insured's coverage without giving thirty (30) calendar days prior written notice to the State (California Department of Health Services).
 - [2] The State of California, its officers, agents, employees, and servants are included as additional insureds, but only with respect to work performed for the State under this agreement and any extension or continuation of this agreement.
 - [3] The insurance carrier shall notify the State of California Department of Health Services, in writing, of the Contractor's failure to pay premiums; its cancellation of such policies; or any other substantial change, including, but not limited to, the status, coverage, or scope of the required insurance. Such notices shall contain a reference to the agreement number for which the insurance was obtained.
- (f) The Contractor and/or Subcontractor is hereby advised that copies of certificates of insurance may be subject to review and approval by the Department of General Services (DGS), Office of Risk and Insurance Management. The Contractor shall be notified by DHS, in writing, if this provision is applicable to this agreement. If DGS approval of the certificate of insurance is required, the Contractor agrees that no work or services shall be performed prior to obtaining said approval.
- (g) In the event the Contractor and/or Subcontractor fails to keep insurance coverage, as required herein, in effect at all times during vehicle possession, DHS may, in addition to any other remedies it may have, terminate this agreement upon the occurrence of such event.

5. Subcontract Requirements

(Applicable to agreements under which services are to be performed by subcontractors including independent consultants.)

- a. Prior written authorization will be required before the Contractor enters into or is reimbursed for any subcontract for services costing \$5,000 or more. Except as indicated in Paragraph a(3) herein, when securing subcontracts for services exceeding \$5,000, the Contractor shall obtain at least three bids or justify a sole source award.
 - (1) The Contractor must provide in its request for authorization, all particulars necessary for evaluating the necessity or desirability of incurring such cost.
 - (2) The State may identify the information needed to fulfill this requirement.

- j. Contractor shall, as applicable, advise all subcontractors of their obligations pursuant to the following numbered provisions of this Exhibit: 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 17, 19, 20, 24, and 32.

6. Income Restrictions

Unless otherwise stipulated in this agreement, the Contractor agrees that any refunds, rebates, credits, or other amounts (including any interest thereon) accruing to or received by the Contractor under this agreement shall be paid by the Contractor to DHS, to the extent that they are properly allocable to costs for which the Contractor has been reimbursed by DHS under this agreement.

7. Audit and Record Retention

(Applicable to agreements in excess of \$10,000.)

- a. The Contractor and/or Subcontractor shall maintain books, records, documents, and other evidence, accounting procedures and practices, sufficient to properly reflect all direct and indirect costs of whatever nature claimed to have been incurred in the performance of this agreement, including any matching costs and expenses. The foregoing constitutes "records" for the purpose of this provision.
- b. The Contractor's and/or subcontractor's facility or office or such part thereof as may be engaged in the performance of this agreement and his/her records shall be subject at all reasonable times to inspection, audit, and reproduction.
- c. Contractor agrees that DHS, the Department of General Services, the Bureau of State Audits, or their designated representatives including the Comptroller General of the United States shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this agreement. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, the Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this agreement. (GC 8546.7, CCR Title 2, Section 1896).
- d. The Contractor and/or Subcontractor shall preserve and make available his/her records (1) for a period of three years from the date of final payment under this agreement, and (2) for such longer period, if any, as is required by applicable statute, by any other provision of this agreement, or by subparagraphs (1) or (2) below.
 - (1) If this agreement is completely or partially terminated, the records relating to the work terminated shall be preserved and made available for a period of three years from the date of any resulting final settlement.
 - (2) If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the three-year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular three-year period, whichever is later.
- e. The Contractor and/or Subcontractor shall comply with the above requirements and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code § 10115.10, if applicable.
- f. The Contractor and/or Subcontractor may, at its discretion, following receipt of final payment under this agreement, reduce its accounts, books and records related to this agreement to microfilm, computer disk, CD ROM, or other data storage medium. Upon request by an authorized representative to inspect, audit or obtain copies of said records, the Contractor and/or Subcontractor must supply or make available applicable devices, hardware, and/or software necessary to view, copy and/or print said records. Applicable devices may include, but are not limited to, microfilm readers and microfilm printers, etc.

those final products. Works does not include articles submitted to peer review or reference journals or independent research projects.

- (3) In the performance of this agreement, Contractor will exercise and utilize certain of its Intellectual Property in existence prior to the effective date of this agreement. In addition, under this agreement, Contractor may access and utilize certain of DHS' Intellectual Property in existence prior to the effective date of this agreement. Except as otherwise set forth herein, Contractor shall not use any of DHS' Intellectual Property now existing or hereafter existing for any purposes without the prior written permission of DHS. **Except as otherwise set forth herein, neither the Contractor nor DHS shall give any ownership interest in or rights to its Intellectual Property to the other Party.** If during the term of this agreement, Contractor accesses any third-party Intellectual Property that is licensed to DHS, Contractor agrees to abide by all license and confidentiality restrictions applicable to DHS in the third-party's license agreement.
- (4) Contractor agrees to cooperate with DHS in establishing or maintaining DHS' exclusive rights in the Intellectual Property, and in assuring DHS' sole rights against third parties with respect to the Intellectual Property. If the Contractor enters into any agreements or subcontracts with other parties in order to perform this agreement, Contractor shall require the terms of the agreement(s) to include all Intellectual Property provisions. Such terms must include, but are not limited to, the subcontractor assigning and agreeing to assign to DHS all rights, title and interest in Intellectual Property made, conceived, derived from, or reduced to practice by the subcontractor, Contractor or DHS and which result directly or indirectly from this agreement or any subcontract.
- (5) Contractor further agrees to assist and cooperate with DHS in all reasonable respects, and execute all documents and, subject to reasonable availability, give testimony and take all further acts reasonably necessary to acquire, transfer, maintain, and enforce DHS' Intellectual Property rights and interests.

b. Retained Rights / License Rights

- (1) Except for Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHS and which result directly or indirectly from this agreement, Contractor shall retain title to all of its Intellectual Property to the extent such Intellectual Property is in existence prior to the effective date of this agreement. Contractor hereby grants to DHS, without additional compensation, a permanent, non-exclusive, royalty free, paid-up, worldwide, irrevocable, perpetual, non-terminable license to use, reproduce, manufacture, sell, offer to sell, import, export, modify, publicly and privately display/perform, distribute, and dispose Contractor's Intellectual Property with the right to sublicense through multiple layers, for any purpose whatsoever, to the extent it is incorporated in the Intellectual Property resulting from this agreement, unless Contractor assigns all rights, title and interest in the Intellectual Property as set forth herein.
- (2) Nothing in this provision shall restrict, limit, or otherwise prevent Contractor from using any ideas, concepts, know-how, methodology or techniques related to its performance under this agreement, provided that Contractor's use does not infringe the patent, copyright, trademark rights, license or other Intellectual Property rights of DHS or third party, or result in a breach or default of any provisions of this Exhibit or result in a breach of any provisions of law relating to confidentiality.

c. Copyright

- (1) Contractor agrees that for purposes of copyright law, all works [as defined in Section a, subparagraph (2)(a) of this provision] of authorship made by or on behalf of Contractor in connection with Contractor's performance of this agreement shall be deemed "works made for hire". Contractor further agrees that the work of each person utilized by Contractor in connection with the performance of this agreement will be a "work made for hire," whether that person is an employee of Contractor or that person has entered into an agreement with Contractor to perform the work. Contractor shall enter into a written agreement with any such

- (e) It has secured and will secure all rights and licenses necessary for Intellectual Property including, but not limited to, consents, waivers or releases from all authors of music or performances used, and talent (radio, television and motion picture talent), owners of any interest in and to real estate, sites, locations, property or props that may be used or shown.
 - (f) It has not granted and shall not grant to any person or entity any right that would or might derogate, encumber, or interfere with any of the rights granted to DHS in this agreement.
 - (g) It has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.
 - (h) It has no knowledge of any outstanding claims, licenses or other charges, liens, or encumbrances of any kind or nature whatsoever that could affect in any way Contractor's performance of this agreement.
- (2) DHS MAKES NO WARRANTY THAT THE INTELLECTUAL PROPERTY RESULTING FROM THIS AGREEMENT DOES NOT INFRINGE UPON ANY PATENT, TRADEMARK, COPYRIGHT OR THE LIKE, NOW EXISTING OR SUBSEQUENTLY ISSUED.

g. Intellectual Property Indemnity

- (1) Contractor shall indemnify, defend and hold harmless DHS and its licensees and assignees, and its officers, directors, employees, agents, representatives, successors, and users of its products, ("Indemnitees") from and against all claims, actions, damages, losses, liabilities (or actions or proceedings with respect to any thereof), whether or not rightful, arising from any and all actions or claims by any third party or expenses related thereto (including, but not limited to, all legal expenses, court costs, and attorney's fees incurred in investigating, preparing, serving as a witness in, or defending against, any such claim, action, or proceeding, commenced or threatened) to which any of the Indemnitees may be subject, whether or not Contractor is a party to any pending or threatened litigation, which arise out of or are related to (i) the incorrectness or breach of any of the representations, warranties, covenants or agreements of Contractor pertaining to Intellectual Property; or (ii) any Intellectual Property infringement, or any other type of actual or alleged infringement claim, arising out of DHS' use, reproduction, manufacture, sale, offer to sell, distribution, import, export, modification, public and private performance/display, license, and disposition of the Intellectual Property made, conceived, derived from, or reduced to practice by Contractor or DHS and which result directly or indirectly from this agreement. This indemnity obligation shall apply irrespective of whether the infringement claim is based on a patent, trademark or copyright registration that issued after the effective date of this agreement. DHS reserves the right to participate in and/or control, at Contractor's expense, any such infringement action brought against DHS.
- (2) Should any Intellectual Property licensed by the Contractor to DHS under this agreement become the subject of an Intellectual Property infringement claim, Contractor will exercise its authority reasonably and in good faith to preserve DHS' right to use the licensed Intellectual Property in accordance with this agreement at no expense to DHS. DHS shall have the right to monitor and appear through its own counsel (at Contractor's expense) in any such claim or action. In the defense or settlement of the claim, Contractor may obtain the right for DHS to continue using the licensed Intellectual Property; or, replace or modify the licensed Intellectual Property so that the replaced or modified Intellectual Property becomes non-infringing provided that such replacement or modification is functionally equivalent to the original licensed Intellectual Property. If such remedies are not reasonably available, DHS shall be entitled to a refund of all monies paid under this agreement, without restriction or limitation of any other rights and remedies available at law or in equity.
- (3) Contractor agrees that damages alone would be inadequate to compensate DHS for breach of any term of this Intellectual Property Exhibit by Contractor. Contractor acknowledges DHS would suffer irreparable harm in the event of such breach and agrees DHS shall be entitled to

- d. The Contractor shall not disclose, except as otherwise specifically permitted by this agreement or authorized by the client, any such identifying information to anyone other than DHS without prior written authorization from the DHS program contract manager.
- e. For purposes of this provision, identity shall include, but not be limited to name, identifying number, symbol, or other identifying particular assigned to the individual, such as finger or voice print or a photograph.

14. Documents, Publications and Written Reports

(Applicable to agreements over \$5,000 under which publications, written reports and documents are developed or produced. Government Code Section 7550.)

Any document, publication or written report (excluding progress reports, financial reports and normal contract communications) prepared as a requirement of this agreement shall contain, in a separate section preceding the main body of the document, the number and dollar amounts of all contracts and subcontracts relating to the preparation of such document or report, if the total cost for work by nonemployees of the State exceeds \$5,000.

15. Dispute Resolution Process

- a. A Contractor grievance exists whenever the Contractor believes there is a dispute arising from DHS' action in the administration of an agreement. If the Contractor believes there is a dispute or grievance between the Contractor and DHS, both parties shall follow the procedure outlined below.
 - (1) The Contractor should first discuss the problem informally with the DHS program contract manager. If the problem cannot be resolved at this stage, the Contractor shall direct its grievance together with any evidence, in writing, to the program Branch Chief. The grievance shall state the issues in dispute, the legal authority or other basis for the Contractor's position and the remedy sought. The Branch Chief shall make a determination on the problem within ten (10) working days after receipt of the written communication from the Contractor. The Branch Chief shall respond in writing to the Contractor indicating the decision and reasons therefore. Should the Contractor disagree with the Branch Chief's decision, the Contractor may appeal to the second level.
 - (2) The Contractor must prepare a letter indicating the reasons for disagreement with Branch Chief's decision. The Contractor shall include with the letter a copy of the Contractor's original statement of dispute with any supporting documents and a copy of the Branch Chief's response. This letter shall be sent to the Deputy Director of the division in which the branch is organized within ten (10) working days from receipt of the Branch Chief's decision. The Deputy Director of the division funding this agreement or his/her designee shall meet with the Contractor to review the issues raised. A written decision signed by the Deputy Director of the division funding this agreement or his/her designee shall be returned to the Contractor within twenty (20) working days of receipt of the Contractor's letter.
- b. If the Contractor wishes to appeal the decision of the Deputy Director of the division funding this agreement or his/her designee, the Contractor shall follow the procedures set forth in Division 25.1 (commencing with Section 38050) of the Health and Safety Code and the regulations adopted thereunder. (Title 1, Subchapter 2.5, commencing with Section 251, California Code of Regulations.)
- c. Disputes arising out of an audit, examination of an agreement or other action not covered by subdivision (a) of Section 20204, of Chapter 2.1, Title 22, of the California Code of Regulations, and for which no procedures for appeal are provided in statute, regulation or the agreement, shall be handled in accordance with the procedures identified in Sections 51016 through 51047, Title 22, California Code of Regulations.
- d. Unless otherwise stipulated by DHS, dispute, grievance and/or appeal correspondence shall be directed to the DHS program contract manager.

- h. Nothing in this provision limits the authority of the State to make audits of this agreement, provided however, that if independent audits arranged for by the Contractor meet Generally Accepted Governmental Auditing Standards, the State shall rely on those audits and any additional audit work and shall build upon the work already done.
- i. The State may, at its option, direct its own auditors to perform either of the audits described above. The Contractor will be given advance written notification, if the State chooses to exercise its option to perform said audits.
- j. The Contractor shall include a clause in any agreement the Contractor enters into with the audit firm doing the single organization wide audit to provide access by the State or Federal Government to the working papers of the independent auditor who prepares the single organization wide audit for the Contractor.
- k. Federal or state auditors shall have "expanded scope auditing" authority to conduct specific program audits during the same period in which a single organization wide audit is being performed, but the audit report has not been issued. The federal or state auditors shall review and have access to the current audit work being conducted and will not apply any testing or review procedures which have not been satisfied by previous audit work that has been completed.

The term "expanded scope auditing" is applied and defined in the U.S. General Accounting Office (GAO) issued Standards for *Audit of Government Organizations, Programs, Activities and Functions*, better known as the "yellow book".

17. Human Subjects Use Requirements

(Applicable only to federally funded agreements/grants in which performance, directly or through a subcontract/subaward, includes any tests or examination of materials derived from the human body.)

By signing this agreement, Contractor agrees that if any performance under this agreement or any subcontract or subagreement includes any tests or examination of materials derived from the human body for the purpose of providing information, diagnosis, prevention, treatment or assessment of disease, impairment, or health of a human being, all locations at which such examinations are performed shall meet the requirements of 42 U.S.C. Section 263a (CLIA) and the regulations thereunder.

18. Novation Requirements

If the Contractor proposes any novation agreement, DHS shall act upon the proposal within 60 days after receipt of the written proposal. DHS may review and consider the proposal, consult and negotiate with the Contractor, and accept or reject all or part of the proposal. Acceptance or rejection of the proposal may be made orally within the 60-day period and confirmed in writing within five days of said decision. Upon written acceptance of the proposal, DHS will initiate an amendment to this agreement to formally implement the approved proposal.

19. Debarment and Suspension Certification

(Applicable to all agreements funded in part or whole with federal funds.)

- a. By signing this agreement, the Contractor/Grantee agrees to comply with applicable federal suspension and debarment regulations including, but not limited to 7 CFR Part 3017, 45 CFR 76, 40 CFR 32 or 34 CFR 85.
- b. By signing this agreement, the Contractor certifies to the best of its knowledge and belief, that it and its principals:
 - (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency;

- d. Contractor or Grantee further agrees that it will insert this certification into any subawards (subcontracts or subgrants) entered into that provide for children's services as described in the Act.

21. Covenant Against Contingent Fees

(Applicable only to federally funded agreements.)

The Contractor warrants that no person or selling agency has been employed or retained to solicit/secure this agreement upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except *bona fide* employees or *bona fide* established commercial or selling agencies retained by the Contractor for the purpose of securing business. For breach or violation of this warranty, DHS shall have the right to annul this agreement without liability or in its discretion to deduct from the agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, and brokerage or contingent fee.

22. Payment Withholds

(Applicable only if a final report is required by this agreement. Not applicable to government entities.)

Unless waived or otherwise stipulated in this contract, DHS may, at its discretion, withhold 10 percent (10%) of the face amount of the agreement, 50 percent (50%) of the final invoice, or \$3,000 whichever is greater, until DHS receives a final report that meets the terms, conditions and/or scope of work requirements of this agreement.

23. Performance Evaluation

(Not applicable to grant agreements.)

DHS may, at its discretion, evaluate the performance of the Contractor at the conclusion of this agreement. If performance is evaluated, the evaluation shall not be a public record and shall remain on file with DHS. Negative performance evaluations may be considered by DHS prior to making future contract awards.

24. Officials Not to Benefit

No members of or delegate of Congress or the State Legislature shall be admitted to any share or part of this agreement, or to any benefit that may arise therefrom. This provision shall not be construed to extend to this agreement if made with a corporation for its general benefits.

25. Year 2000 Compliance

(Applicable to agreements in which Information Technology (IT) services are provided to DHS or if IT equipment is procured.)

The Contractor warrants and represents that the goods or services sold, leased, or licensed to the State of California, its agencies, or its political subdivisions, pursuant to this agreement are "Year 2000 Compliant." For the purposes of this agreement, a good or services is Year 2000 compliant if it will continue to fully function before, at, and after the Year 2000 without interruption and, if applicable, with full ability to accurately and unambiguously process, display, compare, calculate, manipulate, and otherwise utilize date information. This warranty and representation supersedes all warranty disclaimers and limitations and all limitations on liability provided by or through the Contractor.

26. Prohibited Use of State Funds for Software

(Applicable to agreements in which computer software is used in performance of the work.)

Contractor certifies that it has appropriate systems and controls in place to ensure that state funds will not be used in the performance of this agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

30. Union Organizing

(Applicable only to grant agreements.)

Grantee, by signing this agreement, hereby acknowledges the applicability of Government Code 16645 through 16649 to this agreement. Furthermore, Grantee, by signing this agreement, hereby certifies that:

- a. No state funds disbursed by this grant will be used to assist, promote or deter union organizing.
- b. Grantee shall account for state funds disbursed for a specific expenditure by this grant, to show those funds were allocated to that expenditure.
- c. Grantee shall, where state funds are not designated as described in 2 above, allocate, on a pro-rata basis, all disbursements that support the grant program.
- d. If Grantee makes expenditures to assist, promote or deter union organizing, Grantee will maintain records sufficient to show that no state funds were used for those expenditures, and that Grantee shall provide those records to the Attorney General upon request.

31. Contract Uniformity (Fringe Benefit Allowability)

(Applicable only to nonprofit organizations.)

Pursuant to the provisions of Article 7 (commencing with Section 100525) of Chapter 3 of Part 1 of Division 101 of the Health and Safety Code, DHS sets forth the following policies, procedures, and guidelines regarding the reimbursement of fringe benefits.

- a. As used herein fringe benefits shall mean an employment benefit given by one's employer to an employee in addition to one's regular or normal wages or salary.
- b. As used herein, fringe benefits do not include:
 - (1) Compensation for personal services paid currently or accrued by the Contractor for services of employees rendered during the term of this agreement, which is identified as regular or normal salaries and wages, annual leave, vacation, sick leave, holidays, jury duty and/or military leave/training.
 - (2) Director's and executive committee member's fees.
 - (3) Incentive awards and/or bonus incentive pay.
 - (4) Allowances for off-site pay.
 - (5) Location allowances.
 - (6) Hardship pay.
 - (7) Cost-of-living differentials
- c. Specific allowable fringe benefits include:
 - (1) Fringe benefits in the form of employer contributions for the employer's portion of payroll taxes (i.e., FICA, SUI, SDI), employee health plans (i.e., health, dental and vision), unemployment insurance, worker's compensation insurance, and the employer's share of pension/retirement plans, provided they are granted in accordance with established written organization policies and meet all legal and Internal Revenue Service requirements.
- d. To be an allowable fringe benefit, the cost must meet the following criteria:
 - (1) Be necessary and reasonable for the performance of the agreement.
 - (2) Be determined in accordance with generally accepted accounting principles.
 - (3) Be consistent with policies that apply uniformly to all activities of the Contractor.
- e. Contractor agrees that all fringe benefits shall be at actual cost.

- (3) Each recipient shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affect the accuracy of the information contained in any disclosure form previously filed by such person under Paragraph a(2) herein. An event that materially affects the accuracy of the information reported includes:
- (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered federal action;
 - (b) A change in the person(s) or individuals(s) influencing or attempting to influence a covered federal action; or
 - (c) A change in the officer(s), employee(s), or member(s) contacted for the purpose of influencing or attempting to influence a covered federal action.
- (4) Each person (or recipient) who requests or receives from a person referred to in Paragraph a(1) of this provision a contract, subcontract, grant or subgrant exceeding \$100,000 at any tier under a contract or grant shall file a certification, and a disclosure form, if required, to the next tier above.
- (5) All disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the person referred to in Paragraph a(1) of this provision. That person shall forward all disclosure forms to DHS program contract manager.
- b. Prohibition

Section 1352 of Title 31, U.S.C., provides in part that no appropriated funds may be expended by the recipient of a federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract, the making of any federal grant, the making of any federal loan, entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

CERTIFICATION REGARDING LOBBYING

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

Revised by LHS
0348-0046

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: Year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known: _____		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____
6. Federal Department/Agency: _____		7. Federal Program Name/Description: CDFA Number, if applicable: _____
8. Federal Action Number, if known: _____		9. Award Amount, if known: _____
10. a. Name and Address of Lobbying Entity (If individual, last name, first name, MI): _____		b. Name and Address of Lobbying Entity (If individual, last name, first name, MI): _____
(attach Continuation Sheet(s) SF-LLL-A, if necessary)		
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned		13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other, specify: _____
12. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind, specify: Nature _____ Value _____		
14. Brief Description of Services Performed or to be Performed and Dates(s) of Service, including Officer(s), Employee(s), or Member(s) Contracted for Payment indicated in item 11: (Attach Continuation Sheet(s) SF-LLL-A, if necessary)		
15. Continuation Sheet(s) SF-LLL-A Attached: <input type="checkbox"/> Yes <input type="checkbox"/> No		
16. Information requested through this form is authorized by Title 31, U.S.C., Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to Title 31, U.S.C., Section 1352. This information will be reported to the Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$19,000 and not more than \$100,000 for each such failure.		Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only		Authorized for Local Reproduction Standard Form-LLL

Exhibit E
Additional Provisions

WITNESSETH: That the Contractor for and in consideration of the covenants, conditions, agreements, and stipulations of the State hereinafter expressed, does hereby agree to furnish to the State services and materials as follows: *(Set forth service to be rendered by Contractor, amount to be paid Contractor, time for performance or completion, and attach plans and specifications, if any.)*

WHEREAS, The Department of Health Services, is the single agency responsible for administering the California Medi-Cal Assistance Program (hereinafter referred to as Medi-Cal) which is authorized by Title 42, United States Code (U.S.C.), Section 1396 et seq. and Welfare and Institutions (W&I) Code, Division 9, Part 3, Chapter 7 (commencing with Section 14000) and Chapter 8 (commencing with section 14200);

WHEREAS, the federal Social Security Act mandates cooperative arrangements between the single state agency and participating local government agency (**San Bernardino County**, hereinafter referred to as Local Governmental Agency (LGA)) responsible for providing health related administrative activities;

WHEREAS, the California W&I Code, Section 14113, requires the State to enter into cooperative arrangements with other State agencies or departments responsible for health services to ensure the appropriate utilization of such services;

WHEREAS, the California W&I Code, Section 14132.47, provides the LGA's the option to claim federal Medicaid matching funds for assisting the STATE in the proper and efficient administration of the Medi-Cal Program;

NOW THEREFORE, the STATE and the LGA enter into the following contract:

ARTICLE I - MUTUAL OBJECTIVES

Both parties to the Contract agree:

- A. To ensure that Medi-Cal potentially eligible individuals, and their families where appropriate, served by the LGA are informed of the Medi-Cal Program, how to access it, and assisted in accessing the Medi-Cal program, if needed.
- B. To ensure that assistance is provided to Medi-Cal eligible individuals, and their families where appropriate, in facilitating their receipt of services and activities in the Medi-Cal program.
- C. That this contract is governed by 42 U.S.C., Section 1396 et seq., 42 Code of Federal Regulations (CFR) Part 400 et seq., and 45 CFR Part 95, California Welfare and Institutions Code, Division 9, Part 3, Chapter 7 (commencing with Section 14000) and Chapter 8 (commencing with Section 14200), and Title 22 California Code of Regulations (CCR), Division 3 (commencing with Section 50000), all as periodically amended; State issued policy directives; and by Federal Office of Management and Budget (OMB) Circular A-87, as periodically amended.
- D. Retain all necessary records for a minimum of three (3) years after the end of the quarter in which the expenditures were incurred for Medi-Cal Administrative Activities (MAA) and, if an audit is in progress, all records relevant to the audit shall be retained until the completion of the audit or the final resolution of all audit exceptions, deferrals and/or disallowances, whichever is later. The records shall fully disclose the type and extent of administrative activities performed by appropriate staff. The LGA shall furnish said documentation, and any other information regarding payments for performing MAA, upon request, to the State and the Federal Government.
- E. Be responsible to the State for all requirements under this Contract even though the requirements are carried out pursuant to a subcontract. All subcontracts shall include provisions requiring compliance with the terms and conditions of this Contract. All non-governmental entities performing MAA pursuant to the provisions of this Contract shall be deemed true subcontractors of the LGA.
- F. Enter into Interagency Agreements or Memoranda of Understanding with all departments/entities performing MAA in support of the LGA claiming administrative reimbursement. The LGA shall have available for State and/or Federal review, any Interagency Agreement or Memoranda of Understanding to perform administrative activities under the auspices of the Medi-Cal Program.

Exhibit E
Additional Provisions

ARTICLE II - STATE RESPONSIBILITIES

- A. Review, approve and process LGA claims for reimbursement of the allowable actual costs of providing administrative activities necessary for the proper and efficient administration of the Medi-Cal Program. The costs may include the expenses of staff and the operating expenses and equipment costs necessary to collect data, disseminate information, and carry out the staff activities outlined in this Contract. Reimbursement shall be made subsequent to the quarter for which a claim for MAA is made. Any claim that cannot be approved shall be returned to the LGA with a written explanation of the basis for disapproval.
1. The maximum rate of Federal reimbursement for compensation (salary and benefits), of activities qualifying under Federal regulations applying to "skilled professional medical personnel" of a public agency and their "directly supporting staff" shall be 75 percent of such costs for activities identified as "enhanced." The maximum rate of reimbursement for allowable costs of activities identified as "non-enhanced", performed by Skilled Professional Medical Personnel (SPMP) and their directly supporting staff, shall be 50 percent. The maximum rate of reimbursement for all allowable costs other than compensation applicable to SPMPs and their directly supporting staff, shall be 50 percent.
 2. An SPMP is defined as an employee of the LGA who has completed a 2-year or longer program leading to an academic degree or certification in a medically-related profession and who performs duties and responsibilities requiring professional medical knowledge and skills. Directly supporting staff are also employees of the LGA. They are secretarial, stenographic, copy, file, or record clerks who are directly supervised by the SPMP, and who provide clerical services necessary for carrying out the professional medical responsibilities and administrative activities of the SPMP.
 3. The rate of federal reimbursement is 50 percent Federal Financial Participation (FFP) for all costs of non-SPMPs and all costs of subcontractors (non-governmental entities) performing allowable administrative activities as defined in Exhibit A, Article I, LGA Responsibilities, Section A.
 4. The maximum rate of reimbursement for all non-public subcontractors to the LGA shall be 50 percent for all categories of cost.
- B. Provide the LGA with a standardized format for the **Summary Invoice, Detailed Invoice and Claiming Plan** which will be disseminated through policy directives issued by the State.
- C. Review claiming plans and LGA initiated amendment(s) to the claiming plan. Any amendment that cannot be approved shall be returned to the LGA with a written explanation of the basis for disapproval.
- D. Submit State approved claiming plans and amendments to the Centers for Medicare and Medicaid Services (CMS) for review and approval.
- E. Make available to LGAs, training and technical support on proper administrative activities to be claimed, identifying costs related to these activities, and billing procedures.
- F. Designate a liaison with the LGA for issues regarding this Contract. All such issues shall be directed to:

State Department of Health Services
Chief, Administrative Claiming Operations Unit
Medi-Cal Benefits Branch
714 P Street, Room 1640
Sacramento, CA 95814

Exhibit E
Additional Provisions

ARTICLE III - JOINT RESPONSIBILITIES

- A. The State and the LGA hereby agree to comply with all applicable laws governing the confidentiality of client information for Medi-Cal clients served by the LGA, or subcontractor, under this Contract. Applicable laws include, but are not limited to, 42 U.S.C. Section 1396a(a)7, 42 CFR Section 431.300, Welfare and Institutions Code, Section 14100.2, and 22 California Code of Regulations Section 51009.
- B. Both parties accept and agree to comply with the applicable standards set forth in Exhibits D (F) and F entitled, "Special Terms and Conditions" notwithstanding provisions which are superceded by Article IV D and "Contractor's Release" which are incorporated by reference and made part of this contract as though fully set forth herein.

ARTICLE IV - GENERAL PROVISIONS

- A. This Contract constitutes the entire contract between the parties. Any condition, provision, agreement or understanding not stated in this Contract shall not affect any rights, duties or privileges in connection with this Contract.
- B. The State shall have the right to access, examine, monitor and audit all records, documents, conditions and activities of the LGA and their subcontractors related to the programs funded by this Contract.
- C. The term "days" as used in this Contract shall mean calendar days unless specified otherwise.
- D. Should any disagreement arise between the State and the LGA on any provisions of this Contract, the parties agree that the same shall be submitted in writing to each other and be the subject of discussion between the State liaison and LGA liaison herewith designated, and in a good faith effort to achieve resolution. If mutual agreement cannot be reached within 30 days after receipt of the written issue of dispute, the LGA may request a meeting with the Director, or his or her designee, to present its concerns. If the Director or his or her designee cannot meet, the State shall respond in writing to the LGA, with the State's position. Thereafter, the decision of the Director shall be final. The date of "receipt" shall be the date the written disagreement is postmarked.
- E. None of the provisions of this Contract are or shall be construed as for the benefit of, or enforceable by, any person not a party to this Contract.
- F. No covenant, condition, duty, obligation, or undertaking continued or made a part of this Contract shall be waived except by Contract amendment by the parties hereto, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed or discharged by the party to which the same may apply; and, until performance or satisfaction of all covenants, conditions, duties, obligations, or undertakings is complete, the other party shall have the right to invoke any remedy available under this Contract, or under law, notwithstanding such forbearance or indulgence.
- G. The LGA is responsible for the acts or omissions of its employees and/or subcontractors.

Submission of a falsified Summary Invoice or Detailed Invoice by an LGA shall constitute a breach of contract. Submission of a Summary Invoice or Detailed Invoice for which there is no supporting documentation by an LGA may constitute a breach of contract.

The conviction of an employee or subcontractor of the LGA, or of an employee of a subcontractor, of any felony or of a misdemeanor involving fraud, abuse of any Medi-Cal applicant or beneficiary, or abuse of the Medi-Cal Program, shall result in the exclusion of that employee or subcontractor, or employee of a subcontractor, from participation in the Medi-Cal Administrative Claiming process. Failure of an LGA to exclude a convicted individual from participation in the Medi-Cal Administrative Claiming process, shall constitute a breach of contract.

Exhibit E
Additional Provisions

Exclusion after conviction shall result regardless of any subsequent order under Section 1203.4 of the Penal Code allowing a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

Suspension or exclusion of an employee or subcontractor, or of an employee of a subcontractor, from participation in the Medi-Cal Program, the Medicaid Program, or the Medicare Program, shall result in the exclusion of that employee or subcontractor, or employee of a subcontractor, from participation in the Medi-Cal Administrative Claiming process. Failure of an LGA to exclude a suspended or excluded individual from participation in the Medi-Cal Administrative Claiming process shall constitute a breach of contract.

Revocation, suspension, or restriction of the license, certificate, or registration of any employee, subcontractor, or employee of a subcontractor, shall result in exclusion from the Medi-Cal Administrative Claiming process, when such license, certificate, or registration is required for the performance of Medi-Cal administrative activities. Failure of an LGA to exclude an individual whose license, certificate, or registration has been revoked, suspended, or restricted, from participation in the Medi-Cal Administrative Claiming process, may constitute a breach of contract.

Contractor's Release

Instructions to Contractor:

With final invoice(s) submit one (1) original and two (2) copies. The original must bear the original signature of a person authorized to bind the Contractor. The additional copies may bear photocopied signatures.

Submission of Final Invoice

Pursuant to contract number 03-75084 entered into between the State of California Department of Health hereby Services and the Contractor (identified below), the Contractor does acknowledge that final payment has been requested via invoice number(s) _____, in the amount(s) of \$ _____ and dated _____.
If necessary, enter "See Attached" in the appropriate blocks and attach a list of invoice numbers, dollar amounts and invoice dates.

Release of all Obligations

By signing this form, and upon receipt of the amount specified in the invoice number(s) referenced above, the Contractor does hereby release and discharge the State, its officers, agents and employees of and from any and all liabilities, obligations, claims, and demands whatsoever arising from the above referenced contract.

Repayments Due to Audit Exceptions / Record Retention

By signing this form, Contractor acknowledges that expenses authorized for reimbursement does not guarantee final allowability of said expenses. Contractor agrees that the amount of any sustained audit exceptions resulting from any subsequent audit made after final payment, will be refunded to the State.

All expense and accounting records related to the above referenced contract must be maintained for audit purposes for no less than three years beyond the date of final payment, unless a longer term is stated in said contract.

Recycled Product Use Certification

By signing this form, Contractor certifies under penalty of perjury that a percentage (0% to 100%) of the materials, goods, supplies or products offered or used in the performance of the above referenced contract meets or exceeds the minimum percentage of recycled material, as defined in Public Contract Code Sections 12161 and 12200.

Reminder to Return State Equipment/Property (If Applicable)

(Applies only if equipment was provided by DHS or purchased with or reimbursed by contract funds)

Unless DHS has approved the continued use and possession of State equipment (as defined in the above referenced contract) for use in connection with another DHS agreement, Contractor agrees to promptly initiate arrangements to account for and return said equipment to DHS, at DHS's expense, if said equipment has not passed its useful life expectancy as defined in the above referenced contract.

Patents / Other Issues

By signing this form, Contractor further agrees, in connection with patent matters and with any claims that are not specifically released as set forth above, that it will comply with all of the provisions contained in the above referenced contract, including, but not limited to, those provisions relating to notification to the State and related to the defense or prosecution of litigation.

Contractor's Legal Name (As on contract): San Bernardino County

Signature of Contractor or Official Designee: _____

Date: _____

Printed Name/Title of Person Signing: _____

DHS Distribution: Accounting (Original) Program CMU contract file